

REMARKS

Claims 9-12 and 18 were previously allowed. It is assumed that these claims are still allowable. Claims 1-25 are pending.

Restriction Requirement

The Office action of 6/30/2006 is a modification of the Office action of 4/12/2006 in which a restriction requirement was made. In the new restriction requirement, the Examiner states:

Currently, no claim is generic. It was previously stated that claims 1-5, 7, 8, 13 are generic. However, the limitation “the first value and the second value are variable and set according to a physical characteristic of the media, a physical characteristic of a toner to be applied to the media, and an environmental condition” limits those claims to Species A of groups 1 and 2 above. Those claims are limited to Species G because the Specification describes setting the variables based on the physical characteristics of the media, physical characteristics of the toner, and environmental conditions only as a process of changing the electric power settings. See Specification, p. 16, [0053].

This statement is unclear, and as best understood, it is traversed. First, it appears that the reference to “Species G” was in error, and that the Examiner intended it to refer to “Species A”. With this assumed, the interpretation of these claims is improper, because it requires reading a limitation from the specification into the claims. That is, the Examiner has interpreted these claims as requiring that the “first parameter” and “the second parameter” are used only to control the electric power settings. There is simply no basis in the specification or the prosecution history for reading limitations from the specification into the claims. Notably, this is not at all a situation such as *Honeywell v. ITT Industries*, where the inventors made clear statements about the scope of their invention. There been no disclaimer of claim scope to support the examiner’s narrowing of the claims. Nor is there a need to resort to the specification to define the meaning of “first parameter” and “second parameter” or any other term in these claims. Accordingly, claims 1-5, 7, 8 and 13 are generic.

Regardless of this issue, the restriction merits due consideration, and the prior election is therefore repeated. In *Markush* Group I, Species G (“frequency”) is hereby elected. In *Markush* Groups II, Species G (“frequency”) is also hereby elected. In *Markush* Group III, Species D (“developer temperature”) is hereby elected. These groups were selected to streamline prosecution. Allowed claim 9 includes limitations to “frequency”, so “frequency” was selected for Groups I and II. Selecting “developer temperature” seemed to simplify the remaining choices.

The Examiner required a listing of which claims readable on the elected species. This is as follows:

Group I (first parameter is frequency): 9, 18, 10-12, 15, 16, 19, 20, 21, 22, 23, 24.

Group II (first parameter is frequency): 9, 18, 10-12, 16, 17, 20, 22, 24.

Group III (the controller is adapted to receive and control based on developer temperature): 6, 14, 25.

Since claims 1-5, 7, 8 and 13 are generic, there is no need to withdraw or cancel any claims at this time.

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Conclusion

It is respectfully submitted that the present application is now in condition for allowance. Reconsideration and reexamination are respectfully requested and allowance at an early date is solicited.

The Examiner is invited to call the undersigned attorney to answer any questions or to discuss steps necessary for placing the application in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sereboff', written over a horizontal line.

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